

Unit C 17: Gender, state and conflicts

1. Summary

Feminist research has demonstrated that the (liberal) state and state institutions are not gender neutral. Therefore, the question arises how to deal with gender issues in the state sector.

2. Gender and Society

"Gender is a social category attached to biological characteristics, and its normative force is extremely powerful in everyday life, as well as in science."
Source: Wastl-Walter 2010:9.

Birgit Riegraf (2010b:22), following Gudrun-Axeli Knapp (1992:295ff.), has circumscribed five dimensions of gender relations in society:

"The five dimensions ..., which are not always aligned but can also be contradictory and counteract each other, form:

1. Dimensions of domination, objective interconnections of the different 'spheres' or social subsystems, therein in particular: Socialization forms of work, generativity/sexuality;
2. Symbolic order (language), legitimation systems, ideologies, cultural representations of gender relations and gender difference;
3. Institutions, class- and gender-differentiated carrier groups of economic and political power, regulatory mechanisms of power distribution (e.g., legal and other standardizations, and access regulations);
4. Interactions between women and men in their multiple determinations by subjective motives, interests, and objectified contexts of action and interpretation;
5. Social psychology of gender relations, gender socialization (understood as a contradictory process of individuation and socialization) intrapsychic representations of gender relations and gender difference, psychodynamics, and motives/desires" (Riegraf 2010b:22).

It is important to keep in mind that gender is permanently (re)produced in everyday processes - that is, through our everyday actions, our behavior, but also through conventions: "We all are doing gender." However, the social category "gender" is not only a consequence of constant individual interactions, but also structurally conditioned.

Feminist discourse - which was also essentially about society and the state - has essentially gone through three phases: A **phase of universalism** in the 1960s ("Men and women are equal!"), represented, among others, by Simone de Beauvoir (e.g., 1968), who called for equality with men in politics, economics, and law (cf. Künzel 2006:61), a second **difference-theoretical phase** ("Women are quite different! "), represented for instance by Catharine MacKinnon (e.g., 1998), who advocated exclusive female values in demarcation from a masculine frame of reference, and a third **phase of sex and gender as social construction**, represented among others by Judith Butler (e.g., 2003). In the aftermath of the third phase, the category "gender" was increasingly deconstructed.

Since the beginnings of the women's movement, there has been a struggle for an adequate feminist approach to equality and difference, taking into account various principles of equality. The question of what equality means first requires a clarification of the subject of equality, who should actually be equal to whom. Equality presupposes difference... The many feminist discussions of equality, equality, or even equivalence are therefore all based on a conception of difference and difference that usually manifests itself primarily in gender."

Source: Künzel 2006:61.

In the context of the poststructural discussion, approaches of Queer Theory were developed in connection with the transgender question, which questioned the - fixed - division into a so to speak natural heterosexuality and homosexuality.

Queer Theory

"The term queer was formulated primarily out of a critique of gay and lesbian politics. However, other sexual and gender identities that deviate from the norm, such as transgender identities and intersexuality in particular, are also encompassed by queer theory. The point is not to convey a new identity as queer, but to question the idea of a nature-given gender and sexual identity. In doing so, queer theory itself eludes definition, claiming the same provisional and mutable character it ascribes to identities. ...

The variant of Queer Theory concerned with law, Queer Legal Theory, engages with processes of the production of the norms of bisexuality and heterosexuality. At the same time, Queer Legal Theory also looks for subversive moments in law."

Source: Büchler/Cottier 2012:32.

Queer theory is significant for our question insofar as it is an expression of the ever more rapidly changing ideas about social roles and norms. However, there is a danger that ultimately any stable and binding norm of social and thus also intergender coexistence will dissolve.

Thus, there is always the question of the basis of equality and the right to difference. Although the law tries to treat men and women formally equally, however, everyday life - contrary to the assumption in the law, cf. Schmidt 2006:69 - is never gender-neutral. Therefore, attempts have been made to use the legal figure of "indirect discrimination" to capture this substantive and structural inequality, e.g., through a gender-specific law such as the law on the advancement of women (cf. Schmidt 2006:69).

2.1 Gender and the State

According to Gundula Ludwig (2011:21), the state is a "central arena, a central actor" for the construction of gender identities and relations. In this context, Ludwig understands "gender ... as a hinge ... through which the mutual referentiality of state and subjects is established" (Ludwig 2011:24). But what does this mean? The relationship between the state, on the one hand, and subjects - that is, individuals and institutions - on the other, is essentially revealed through the construction of gender, which takes place in society as a whole as well as in the state sphere and in individual institutions. Hence, notions that the state is neutral - and especially gender-neutral - should be questioned. Every interaction - but also every organizational process or institutional procedure - constructs gender, and thus masculinity and femininity, "man" and "woman."

Somewhat polemically, Ludwig (2011:33), following Eva Kreisky (1995), speaks of a "gender blindness of mainstream and malestream political science" and accuses it of describing the state in an "androcentric" (= male-centered) way as "gender-neutral [to] describe" (Ludwig

2011:33/34) and thus persisting in a "pre-scientific thinking" (Kreisky 1995:204). By this is meant that often already the questions - and even more the analyses - in political science are developed from a "male" point of view, which logically can also only lead to "androcentric" results. If a certain point of view - in this case gender aspects - is left out, the results cannot be expected to be gender-sensitive either. In other words, because - as Büchler and Cottier (2012:247) put it - the legal subject is always "thought of as male" and the conception of law is "factually oriented toward the normal male biography," the law - depending on the perspective - either does not reach deep enough or is biased. This can be seen, for example, in the notions of "public" and "private" that are still common today and are undoubtedly male-centered.

Until the 1980s, liberal theories of state contract postulated - directly or indirectly - a "public" and a "private" sphere, with the state having to stay out of the private sphere as much as possible. For a long time, for example, marital rape was not included as a criminal offense in criminal law because it took place in the "private" sphere of marriage and family. In her classic book, *The Sexual Contract*, Carol Pateman showed "that the 'private' and 'public' spheres were fundamentally intertwined even at the genesis of modern societies. But only one, namely the 'public' sphere corresponded with 'civil' liberties and attracted attention in the wider consideration" (Riegraf 2010a:176).

State and Gender

"In the course of the discussion on the connection between gender, state and politics, it became clear that the public and political spheres are gender-structured, that the state does not constitute an entity without interests, but that state action is based on social constellations of power and dominance in gender relations, (re)produces them, and even in liberal societies the private sphere - depending on the existing power and dominance relations not only for women but also for other groups in society - does not represent a protected and domination-free space in which members of society can develop their ideas of a good life, regardless of their gender or their social and cultural background."

Source: Riegraf 2010a:177.

The problem lies in the fact that private space is, on the one hand, an area that is protected against interference from outside - from other private parties or from the state. But since the private space is not gender-neutral, the gender structure of society continues there. This has meant that for a long time it was, and still is, difficult to enforce fundamental rights in

the private sphere. An example of this is, for example, the fact that marital rape was not punishable until recently: in Germany, for example, until 1997 (cf. Lembke 2006:158), in Austria until 1989, in Switzerland until 1992 only as an application offense and from 2004 as a criminal offense. The situation is similar for assaults on children.

In addition, no individual is "gender neutral" (Phillips 1995:55).

Therefore, the twofold question arises whether there can be "gender-neutral" individual fundamental rights and whether - and if so, how - the democratic, secular state can be made gender-neutral.

The fact that there are still major differences between the sexes, especially in the area of fundamental rights, is shown, for example, by the education sector, which is supposed to ensure the right to education for all. Girls' access to education is still significantly worse, especially in poor countries (cf. D'Anieri 2014:381).

1.2 Women as agents of change

The role of women in relation to social, economic and political change is ambivalent. On the one hand, there are insistent, conservative attitudes among women in social change, or they become victims of social change. For example, Lamia Karim (2011:100/101) reported on the much praised microfinance activity of Grameen Phone about great - also financial - difficulties especially of poorer women in MicroFinance: "In Bangladesh today, the only one making money on Grameen Phone's wireless service is ... Grameen Phone". Other women recipients of microfinance bonds became impoverished (cf. Krim 2011:116). On the other hand, women often become drivers of social and governmental change.

Example Saudi Arabia

Saudi Arabia's transformation from a Bedouin-influenced desert society on the periphery of the world's empires at the beginning of the 20th century to a modern, prosperous regional player is proceeding rapidly and poses ever new challenges to the traditional alliance of the royal house and the Wahabi religious elite.

In this context, the image of gender is also changing: The more rapidly the modernization thrust has proceeded, the stronger the criticism of the rigid separation of the sexes, which

puts women at a massive legal, economic and political disadvantage. Thus, gender relations in Saudi Arabia are also undergoing fundamental change, which often takes place in private spaces and beyond the public sphere, but challenges traditions and conservative norms. Women are increasingly becoming political, economic and reforming actors, formulating their demands and gaining more weight in public discussions. Through their good level of education, new platforms for discussion via the Internet, and increased economic engagement, they are gradually succeeding in freeing themselves from traditional gender perceptions, finding niches, and carefully and cautiously asserting their influence."
Source: Sons 2013:197/198.

Accordingly, liberal or progressive women's movements have emerged in many Muslim countries - including Saudi Arabia - which criticize in particular the strict gender segregation, the widespread legal inequality between men and women, the poor labor market conditions for women, political lack of freedom and exclusion from public life (cf. Sons 2013:225).

However, even in Western countries, the percentage of women in politics has stagnated for several years.

The reasons for the stagnation or decline in the proportion of women in parliaments and municipal bodies are manifold: for example, as the left's election results fall, the proportion of women usually falls as well, because left-wing parties usually field more women as candidates. Many women stay in office for less time than men, and an increasing number of women justify their withdrawal from politics with the harsher climate and the brutalization of political discussion. Women are more consensus- and compromise-oriented than men, which is a deterrent in times of political polarization. Furthermore, an increasing conservatism in many cantons leads to the fact that - as Nicole Baur, the head of the Neuchâtel Office for Gender Equality believes - traditional male and female roles are once again more apparent (cf. Kucera in Neue Zürcher Zeitung, 8.3.2017:15).

2.3 Gender and violence

Based on Galtung's definition of structural violence according to which violence occurs "when people are influenced in such a way that their current somatic and mental realization is less than their potential realization" (Galtung 1975:9), Grubner (2011:15) defined violence against women as follows: Violence against women "cannot be reduced to physical assaults

and injuries, but also refers to non-physical boundary violations (psychological, verbal) as well as to structural and institutional relations of violence. Personal violence in gender relations is always thought of in the context of much broader gender and state structures that lead to highly unequal opportunities and security risks for men and women."

Sexualized violence is directed against members of one sex and includes "all attacks and assaults aimed at violating a person's sexual intimate sphere" Mischkowski 2004:18). This type of boundary violation also includes violation of the sense of shame, verbal humiliation, psychological coercion, and even institutional coercive measures (cf. Zuckerhut 2011:24).

According to Michael Meuser (2010:109), in academic gender discourse "a concept of violence has largely established itself that is limited to the dimension of personal violence, but grasps it as both physical and psychological, or distinguishes between non-sexualized physical, sexual, and psychological violence." The reason why structural violence is excluded from this concept of violence is that it is hardly possible to distinguish between structural violence and domination (cf. Meuser 2010:109). But this restriction is neither satisfactory nor adequate, i.e. adapted to the research problem. For often physical - sexual or non-sexual - violence is only the tip of the iceberg of structural violence.

Ulrike Lembke (2006:155) has defined violence as an "adversary of freedom, of personal autonomy." Free decisions are only possible when there are real alternatives for action and absence of coercion. This includes personal integrity: "Protection of integrity means that this self-realization is not sanctioned, that people are left in peace physically and psychologically in their self-determined being" (Lembke 2006:155).

Looking at common theories of the state, Ludwig (2011:37) has posited that the (bourgeois) state's monopoly on violence is a continuation of private male violence in the family:

State monopoly of violence = male violence?

"Including gender as an analytical category, it was shown that the state shares the 'monopoly' of legitimate exercise of violence with the 'private monopoly of violence' of men within the family. Via the demarcation of the public and private spheres, also brought about by law, the family was created as a 'lawless' space in which the need for non-interference by the state is justified by its protection."

Source: Ludwig 2011:37.

This was undoubtedly true of the ancient concept of the family. In Roman society, for example, the father - as "pater familias" - was lord over the household slaves, and thus also had power of disposal over the wife(s) and children. For centuries, the (male) head of the family was entitled to exercise violence - which is why marital rape, for example, was not a criminal offense until the 20th century. Since then, however, the reception of violence has also changed in the family environment. Today, as already mentioned, marital rape is a criminal offense.

2.4 Gender mainstreaming

In order to enforce the equality mandate in the public sector, "gender mainstreaming" is used in Germany, but also in Austria (cf. Heinetzberger 2012) and in Switzerland.

Gender mainstreaming in politics

"Gender mainstreaming consists of the reorganization, improvement, development and evaluation of fundamental processes with the aim of incorporating a gender perspective into all political concepts at all levels and at all stages by all actors involved in political decision-making processes."

Source: Council of Europe 1998, quoted from Vinz/Schiederig 2009:24.

Gender mainstreaming measures include: Programs to increase work-life balance, dissolving barriers to advancement for women, opening up "typical" women's and men's jobs, eliminating wage and salary disparities between the sexes, gender-sensitive personnel management and leadership, and gender training for sensitive and gender-appropriate relationships in the workplace. However, studies - e.g. Heinetzberger 2012:265 - have shown "that there is no consensus in politics, business as well as academia on which specific measures should be assigned to gender mainstreaming." However, this also allows the range

of gender measures to be much broader and used more flexibly than if there had been end-to-end standardization or even certification.

3. Control Questions

1. Which five social dimensions of gender do Riegraf and Knapp mention?
2. What is meant by "doing gender"?
3. What three phases can be roughly distinguished in feminist discourse?
4. To what extent is the state never gender-neutral?
5. What do Ludwig and Kreisky mean by "mainstream and malestream political science"?
6. Why is the formal equality between men and women postulated in law a fiction or at least only partially existent?
7. Why is privacy a double-edged sword from a gender perspective?
8. How did Galtung define structural violence?
9. How does Grubner define violence against women?
10. According to Lembke, why is violence the opposite of freedom?
11. Why does Ludwig see the state monopoly on violence as a continuation of male violence?
12. What does gender mainstreaming mean and where is it (mainly) used?
13. Name three measures within the framework of gender mainstreaming.

4. Links

Gender-Doktrin und Staat

Von Claudia Wirz

<http://www.nzz.ch/meinung/bitte-keine-zwangsbeglueckung-1.18453682>

Gender-Perspektive, bürgerschaftliches Engagement und aktivierender Staat

Von Barbara Stiegler

<http://library.fes.de/pdf-files/stabsabteilung/01355.pdf>

Vergewaltigung in der Ehe gilt künftig als Verbrechen (Deutschland)

<http://www.zeit.de/1997/21/ehe.txt.19970516.xml>

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